

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 21.10.2011*

+ **R.C. Rev. No. 420/2011 & CM Nos.19472-73/2011**

SHRI. SURESH KUMAR GUPTA Petitioner

Through: Mr. J.C. Seth, Advocate.

Versus

DR. SUNIL ABROL & Anr. Respondent

Through: Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

INDERMEET KAUR, J. (Oral)

1 This is an eviction petition filed by the landlord Sunil Abrol under Section 14 (1)(e) of the Delhi Rent Control Act (DRCA); he is seeking eviction of the ground floor of property bearing No. M-27, Greater Kailash-I, New Delhi; his contention is that he is living on the first floor and the ground floor of this property is now required by him to carry on his consultancy service; it is not in dispute that the petitioner was the Director General, Consultancy, Development Centre, Ministry of Science and Technology, Government of India; it is also not in dispute that he has

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superannuated on 30.04.2011; contention is that this accommodation on the ground floor is required by him to run is a consultancy business along with his two sons who have presently gone to USA for further studies.

2 An application for leave to defend had been filed by the tenant; contention of the tenant is that both sons of the petitioner have working visas in the USA and they are working there. There is little chance of their coming back; bonafide requirement of the landlord is in fact malafide; he does not wish to use the accommodation; eviction petition has been filed only with an ulterior motive to extract a higher rate of rent. Further contention is that the petitioner has a flat in Gurgaon and he is actually a resident of Gurgaon and this is evident from the fact that his vehicle has a registration number of Haryana, Gurgaon.

3 These facts have been disputed by the landlord; contention of the petitioner is that although admittedly his vehicle has been registered at Gurgaon, Haryana yet he is a resident of M-27, Greater Kailash-I and to support this submission he had filed documentary evidence which included the passport of himself, his wife and two sons showing that they are residents of M-27, Greater Kailash-I; further his wife being a vice-principal in a

College has also filed her Identity Card showing her address at
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the same place. Contention of the landlord is that the vehicle had been registered at Gurgaon because of lower excise rates and the law permits him to do so because of his having a flat at Gurgaon; this is a forceful submission. The documentary evidence filed by the landlord in fact shows that he is a resident of M-27, Greater Kailash-I. The landlord has two sons aged 27 & 24 years respectively. The elder son is a qualified Ph. D and he has got a job for one year at the Engineering College in USA; contention of the landlord is that this is only a one year temporary job and his son is bound to come back. The other son is admittedly a student. Even presuming for the sake of argument that the elder son is planning to stay on in America, it does not take away the bonafide requirement of the landlord to run his consultancy service from his premises at ground floor at M-27, Greater Kailash-I in view of the fact that he is a qualified consultant; he has already superannuated and is intending to run his consultancy service either with his younger son or even it is by himself alone; his bonafide requirement is not affected.

4 The Apex Court has time and again reiterated that it is the landlord who has to decide his bonafide need; it is not for the tenant to dictate terms to the landlord and decide the manner in which he has to live his life; the bonafide requirement of the

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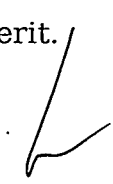
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landlord is best known to himself; unless the tenant is able to show that the need as set up by the landlord is malafide, fanciful and not bonafide and there being no triable issue; an application for leave to defend cannot mechanically in routine be granted.

5 Reliance by learned counsel for the petitioner upon (2009) 15 SCC 88 Rachpal Singh & Others Vs. Gurmit Kaur & others is misplaced.. In this case, the Court had noted that a triable issue has been made out by the tenant wherein the Supreme Court had not interfered in the leave to defend which had already been granted; the landlord in that case was an NRI and her desire to get the tenant evicted was on the ground of her desire for setting up a house in India; the landlord-tenant relationship had also been disputed as also the averment that the landlord was an NRI; triable issues having arisen, the Court had granted leave to defend; facts of each case are different.

6 Impugned order had correctly noted that no triable issue has arisen in this case. Petition is without any merit.

7 Dismissed.



INDERMEET KAUR, J

OCTOBER 21, 2011

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